

PT 97-22  
Tax Type: PROPERTY TAX  
Issue: Educational Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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BETHEL EDUCATION ACADEMY	)		
BENEVOLENT TRUST	)		
Applicant	)		
	)	Docket #	95-58-6
v.	)		
	)	Parcel Index #	06-11-14-427-005
THE DEPARTMENT OF REVENUE	)		
OF THE STATE OF ILLINOIS	)		

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RECOMMENDATION FOR DISPOSITION

Appearances: Mr. John Barr appeared on behalf of Bethel Education Academy Benevolent Trust.

Synopsis:

The hearing in this matter was held at 101 West Jefferson Street, Springfield, Illinois, on July 9, 1996, to determine whether or not Macon County Parcel No. 06-11-14-427-005 should be exempt from real estate taxation for the 1995 assessment year.

Mr. Robert W. Kapper, trustee of Bethel Education Academy Benevolent Trust (hereinafter referred to as the "Applicant"), Ms. Sheila Overheul, secretary/treasurer of Trinity Fellowship, Inc. (hereinafter referred to as "Trinity"), Ms. Linda Ossowski, and Ms. Cindy Gregory, volunteers for Trinity were present and testified on behalf of the applicant at the hearing.

The issues in this matter include first, whether the applicant is a trust organized for religious and school purposes. The second issue is whether the applicant owned this parcel during the 1995 assessment year. The third issue is whether the applicant used this parcel for exempt purposes during 1995. The next issue is whether Trinity is a religious and charitable organization. The final issue is whether Trinity used this parcel for charitable purposes during 1995. Following the submission of all of the evidence and a review of the record, it is determined that the applicant is organized for religious and school purposes. It is also determined that the applicant owned this parcel during 1995. In addition, it is determined that the applicant used this parcel for exempt purposes during 1995. It is also determined that Trinity is a religious and charitable organization. Finally, it is determined that Trinity used this parcel for primarily charitable purposes during the 1995 assessment year.

Findings of Fact:

1. The applicant was created pursuant to a Declaration of Trust dated May 25, 1980, which declared the purposes of the trust to include the following:

This trust is created and shall be operated exclusively for religious, charitable or educational purposes within the United States or any of its possessions. (Dept. Ex. No. 1E)

2. The applicant acquired the parcel here in issue pursuant to a quit claim deed dated May 28, 1980. (Dept. Ex. No. 1D)

3. The applicant then constructed a metal building which measures 150 feet by 100 feet on this 1.72 acre parcel. This building was used by a Christian school, known as Bethel Education Academy. (Tr. pp. 11 & 12, & Dept. Ex. No. 3C)

4. The Christian school operated in this building from the time the building was completed until 1985, when the school ceased operation because of a lack of funds. (Tr. pp. 20 & 22)

5. Beginning in 1990, the applicant leased the building on this parcel to Trinity, pursuant to a series of annual leases. The lease in effect during the period January 11, 1995, through December 31, 1995, is found in the record at Department's Exhibit 3E. This series of annual leases, including Exhibit 3E, provide that the applicant leases this parcel to Trinity for \$1.00 per year. The applicant pays the minimum water bill on the property, and Trinity pays all other utilities and all building expenses. (Tr. pp. 16-18).

6. Trinity was incorporated on February 2, 1990, pursuant to the General Not For Profit Corporation Act of Illinois for purposes which include the following:

The purposes for which this corporation is organized are: to propagate the Gospel of Jesus Christ and to maintain and operate a religious corporation. These purposes may be accomplished by the following activities:

(a) direct involvement in ministry endeavors, including the ordaining and sending forth of ministers and missionaries;

(b) the forming of associations with existing local churches and other religious, educational or charitable organizations; (Dept. Ex. No. 3F)

7. During 1995, certain areas of the building on this parcel were used by the applicant for the storage of student desks, student

lockers and bleachers, which were never set up. (Tr. pp. 14-16) The remainder of the building was used during 1995 by Trinity for the sorting, storage and distribution of food, clothing, merchandise, and blankets. (Tr. pp. 26-38)

8. Trinity receives contributions of salvageable merchandise from the Fred Meyer Stores, blankets from the Department of Defense, and items from various other contributors. Trinity, is required to pay the freight to obtain these goods or it is required to pick up the goods. (Tr. pp. 29 & 34)

9. When these goods are distributed by Trinity to various charitable agencies, missionaries, or churches, Trinity requests a handling fee to cover the costs of incoming freight or transportation, sorting and transporting the goods and merchandise to the agency or missionary. (Tr. pp. 29-34)

10. When the goods are distributed to individuals, they are distributed by Trinity, free of charge. (Tr. pp. 34 & 35)

11. In addition, Trinity distributes food to the needy. Trinity obtains this food by purchasing it from the food bank in Springfield or from the salvage stores in Arthur. Trinity also receives donated food items. (Tr. pp. 36 & 39)

12. Trinity conducts regularly scheduled food distributions at the building on this parcel on the first and third Thursday of every month, from 10:00 AM to 10:45 AM. (Tr. p. 42)

13. During 1995, approximately 650 families received food distributions from Trinity. (Tr. p. 42)

14. Individuals in need of food, merchandise, or clothing may come to Trinity directly or may be referred to Trinity by area churches or the Salvation Army. (Tr. p. 40)

15. Trinity asks those persons seeking assistance to fill out an application, which provides Trinity with a view of their financial condition. (Tr. p. 41, & Afterfiled Ex.)

16. If the person has a vehicle, they may come to the building on this parcel where Trinity will let them obtain the food and/or merchandise which they need, at no cost. If they do not have a vehicle, volunteers from Trinity will determine what they need and take it to them at no cost. (Tr. pp. 41 & 42)

17. During 1995, Trinity held two rummage sales at the building on this parcel to dispose of merchandise which it had received but had not given away. (Tr. pp. 50-54)

18. During 1995 Trinity had no paid employees. All of the persons who worked at Trinity were volunteers. (Tr. p. 46)

19. Trinity received funds during 1995 from contributions and the proceeds of the two rummage sales. (Appl. Ex. No. 1)

20. Trinity has no capital, capital stock or shareholders and no one profits financially from this enterprise. (Tr. p. 48)

21. I take notice of the fact that the Director of the Department exempted this parcel and the building thereon for the 1992 assessment year in Docket No. 92-58-72. (Appl. Ex. No. 6)

#### Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-40 provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes,...and not leased or otherwise used with a view to profit, is exempt,....

35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States....

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

Concerning the issue of whether or not Trinity is a charitable organization, in the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down six guidelines to be used in determining whether or not an organization

is charitable. Those six guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in its charter; (4) charity is dispensed to all who need and apply for it; (5) no obstacles are placed in the way of those seeking the benefits; and (6) the primary use of the property is for charitable purposes. Based on the foregoing findings of fact, I conclude that the benefits derived are for an indefinite number of persons, charity is dispensed to all who need and apply for it and no obstacles are placed in the way of those seeking the benefits. I also conclude that Trinity has no capital, capital stock, or shareholders and no one profits from the enterprise. In addition, I conclude that Trinity derived its funds primarily from charity and fundraisers and held its funds in trust for the objects and purposes expressed in its charter. Finally, I conclude that the primary use of this parcel was for charitable purposes during the 1995 assessment year.

Based on the facts, I conclude that the applicant is a trust organized for religious and school purposes. Trinity, I conclude, is an Illinois not-for-profit corporation organized for religious and charitable purposes which actually used the parcel here in issue and the building thereon for charitable purposes during the 1995 assessment year.

In the case of Childrens Development Center v. Olson, 52 Ill.2d 332 (1972), the Supreme Court held that where one exempt entity

leases property to another exempt entity which uses said property for an exempt purpose, the lease will not be considered a lease for profit. This is particularly true in a case such as here, where the lease is for \$1.00 per year.

It should also be pointed out that the Director of Revenue exempted this parcel and the building thereon for the 1992 assessment year in Docket No. 92-58-72. The testimony in this case clearly indicates that the ownership and use of this parcel and the building thereon is essentially the same in the 1995 assessment year as it was in the 1992 assessment year.

I therefore recommend that Macon County Parcel No. 06-11-14-427-005 be exempt from real estate taxation for the 1995 assessment year

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
May 16, 1997